

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(San Joaquin)

THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
MANUEL EDWARD ARREDONDO,  
  
Defendant and Appellant.

C045041  
  
(Super. Ct. No.  
SF084153B)

Pursuant to a negotiated agreement for a 20 year eight month prison sentence, defendant Manuel Edward Arredondo pleaded guilty to four amended counts of assault with a firearm (Pen. Code, § 245, subd. (a)(2))<sup>1</sup> and two counts of residential burglary (§ 459). Defendant admitted using a firearm during one assault (§ 12022.5, subd. (a)) and committing the offense in association with a criminal street gang with the specific intent to further criminal conduct by gang members (§ 186.22, subd.

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<sup>1</sup> Further undesignated section references are to the Penal Code.

(b)(1)). The prosecution moved to dismiss a charge of taking a vehicle without consent (count 5) (Veh. Code, § 10851) and street terrorism (count 6) (§ 186.22, subd. (a)) as well as additional enhancements.

On August 26, 2002, the trial court sentenced defendant to 20 years eight months. On February 14, 2003, defendant filed a notice of appeal and request for certificate of probable cause. On October 24, 2003, this court granted a motion for relief from an untimely filing. On November 18, 2003, defendant's request for a certificate of probable cause was denied.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

We note an omission requiring correction. The trial court failed to rule on the prosecution's motion to dismiss the remaining counts and enhancements. We hereby dismiss counts five and nine, and enhancements on counts two, three four, six, and seven.

DISPOSITION

The judgment is modified to include dismissal of counts five and nine, and enhancements on counts two, three, four, six, and seven. As modified, the judgment is affirmed.

BLEASE, Acting P. J.

We concur:

NICHOLSON, J.

RAYE, J.